

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

STEVEN MILLER,

Plaintiff,

v.

STATE OF ARIZONA DEPARTMENT OF  
 CORRECTIONS, et al.,

Defendant.

Case No. 2:14-cv-00628-APG-CWH

**Order Accepting Report and  
 Recommendation**

**(Dkt. ##8,11)**

Magistrate Judge Hoffman entered his Order (Dkt. #5) dismissing plaintiff Steven Miller's complaint for failure to plead sufficient facts to state claims upon which relief can be granted. Miller filed a "letter of appeal." (Dkt. #8.) Magistrate Judge Hoffman entered another Order (Dkt. #10) denying Miller's repeated request for appointment of counsel. Miller filed another letter (Dkt. #11) again requesting appointment of counsel. I treat Miller's letters (Dkt. ## 8, 11) as objections to Magistrate Judge Hoffman's Orders (Dkt. ## 5, 10).

Neither of Miller's objections addresses the substance of Magistrate Judge Hoffman's Order dismissing the complaint. Instead, both letters request appointment of counsel. Magistrate Judge Hoffman's Order dismissing the complaint (Dkt. #5) is not clearly erroneous or contrary to law; rather, the Order sets forth the proper legal analysis and factual basis for his decision. As such, it is affirmed. Plaintiff may file an amended complaint if he has sufficient facts to support his claims. Magistrate Judge Hoffman's Order details the deficiencies in the current complaint.

I also agree with Magistrate Judge Hoffman that there is insufficient evidence of exceptional circumstances to warrant appointment of counsel. (Dkt. #10.) This appears to be a simple discrimination case, not an exceptional one, and plaintiff appears able to articulate his claims sufficiently. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9<sup>th</sup> Cir. 1986). Plaintiff is free to seek pro bono counsel from those local organizations that provide such representation, or to

1 contact the Nevada State Bar Association to attempt to obtain referrals to such counsel. But he is  
2 not entitled to appointment of counsel by this court.

3 IT IS HEREBY ORDERED that plaintiff's objections (Dkt. ##8, 11) are OVERRULED.

4 IT IS FURTHER ORDERED that Magistrate Judge Hoffman's Orders (Dkt. #5, 10) are  
5 AFFIRMED. Plaintiff's complaint (Dkt. #6) is **dismissed without prejudice**, with leave to  
6 amend.

7 IT IS FURTHER ORDERED that plaintiff has 30 days from entry of this Order in which  
8 to file an amended complaint. Failure to file an amended complaint within that time will result in  
9 this action being dismissed.

10 Dated: February 27, 2014.



11  
12 ANDREW P. GORDON  
13 UNITED STATES DISTRICT JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28